

### **REMARKS/ARGUMENTS**

Claims 14, 15, 20, and 23-40 remain under consideration in the present application. In the Office Action dated May 16, 2006, Claims 14, 15, 20, and 23-39 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,297,795 to Kato et al ("Kato"). Claim 40 is indicated as being allowable if rewritten in independent form including all of the limitations of the base claims. In response to the Office Action, Applicant has amended independent Claims 14, 37, and 38. As explained below, Applicant respectfully submits that the claimed invention of amended independent Claims 14, 37, and 38, and by dependency Claims 15, 20, 23-36, 39, and 40, are patentably distinct from the Kato patent. As such, Applicant respectfully requests reconsideration and allowance of all of the pending claims of the present application.

The amended claims of the present application relate to a portable radiotelephone comprising a user input. The user input comprises a key having a first function of performing a shortcut to a predetermined menu when the radiotelephone is in a first state, and a second function when the radiotelephone is not in the first state. The second function of the key is that of performing a shortcut to the first state. The predetermined menu comprises a list of first level menu items. The radiotelephone also comprises a processor for determining the state of the radiotelephone and for performing a function in response to a first mode of operation of the key.

For example, page 19 and FIG. 12 of the specification describe one embodiment of the claimed invention. In this embodiment, a phone has a button having multiple functions where the function of the button is determined by the state of the phone. If the phone is in idle mode and the button is pressed, the profiles menu is accessed. *See* Steps **122** and **123** of FIG. 12. If the phone is not in idle mode and the button is pressed, "then the processor exits all menus and returns the phone to idle mode." *See* p.19, ¶ 3 and Steps **122** and **124** of FIG. 12. This feature of the key having a second function of performing a shortcut to the first state provides the user with quick access to and from a menu. The user can quickly exit any menu level without having to scroll through further menu levels or select an item from the menu level. For example, this feature may be particularly useful if the user inadvertently enters a menu level and desires to quickly return to the first state.

The Kato patent is directed an information processing apparatus having a rotary switch. The function of the rotary switch depends upon the state of the apparatus and on the mode of

operation of the switch. For example rotating the key causes the apparatus to scroll through information, such as a list of menu options displayed on the display, and pressing the rotary switch causes the selection of the menu option or the entering of a menu.

The rotary key of Kato is operable to enter a menu from a first state. For example, as illustrated in FIG. 7 of Kato momentarily pressing the rotary switch when a document is displayed causes the apparatus to display a pop-up menu. There is no disclosure, however, of the rotary switch having a second function of providing a shortcut to the first state. The rotary switch can be used to enter various states but only by first scrolling through a menu and then selecting the appropriate option. Therefore, Kato does not describe a key having a first function of performing a shortcut to a predetermined menu when the device is in a first state, and a second function of providing a shortcut to the first state when the device is not in the first state, as recited by independent Claims 14, 37, and 38. As such, Applicant submits that Claims 14, 37, and 38, as well as the claims that depend therefrom, are patentably distinct from teachings of the Kato patent.

Furthermore the Kato patent only relates to an information processing apparatus such as a personal computer or a personal digital assistant. There is no disclosure in Kato of a portable radiotelephone. The inputs used in Kato have specific functions related to the specific operations of the information processing apparatus, such as functions related to displaying information in either portrait or landscape mode. There would be no reason why a person skilled in the art at the time the invention was made would look to introduce the features of Kato into a portable radiotelephone. Therefore, since the amended claims recite that the device is a radiotelephone and since Kato does not disclose a radiotelephone, the Applicant submits that the present invention is both new and non-obvious with respect to the prior art.

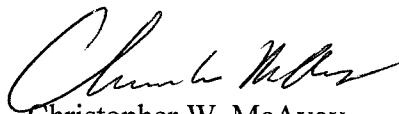
### **Conclusion**

In view of the amended claims and the remarks presented above, it is respectfully submitted that all of the claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

Appl. No.: 10/089,815  
Filed: July 1, 2002  
Amdt. Dated: 08/07/2006

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

  
Christopher W. McAvoy  
Registration No. 57,055

**Customer No. 00826**  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111

**ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON August 7, 2006.**

LEGAL02/30038303v1